

ESTTA Tracking number: **ESTTA470471**

Filing date: **05/02/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Habitat for Humanity International, Inc.		
Entity	Non-profit corporation	Citizenship	Georgia
Address	270 Peachtree Street NW, Suite 1300 Atlanta, GA 30303 UNITED STATES		

Attorney information	William M. Bryner Kilpatrick Townsend & Stockton LLP 1001 West Fourth Street Winston-Salem, NC 27101 UNITED STATES BBryner@ktslaw.com, SHayes@ktslaw.com, ktelihaber@ktslaw.com, tadmin@ktslaw.com
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Applicant Information

Application No	85451415	Publication date	04/10/2012
Opposition Filing Date	05/02/2012	Opposition Period Ends	05/10/2012
Applicants	Choi, Danny K. 412 Magnolia Street Costa Mesa, CA 92627 UNITED STATES Choi, Melinda A. 412 Magnolia Street Costa Mesa, CA 92627 UNITED STATES		

Goods/Services Affected by Opposition

Class 036.

All goods and services in the class are opposed, namely: FINANCIAL SERVICES, NAMELY, ELECTRONIC CREDIT CARD TRANSACTION SERVICES, NAMELY, INITIATING AND SUPPORTING CHARITABLE CONTRIBUTION DONATION PROGRAMS THAT ALLOW THE USE OF CREDIT CARD FOR DONATIONS TO THE CAUSE OF OTHERS

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1473529	Application Date	05/18/1987
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Registration Date	01/19/1988	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 1975/10/00 First Use In Commerce: 1975/10/00 RENOVATION AND CONSTRUCTION OF RESIDENTIAL HOUSING FOR THE NEEDY		

U.S. Registration No.	2169719	Application Date	08/18/1997
Registration Date	06/30/1998	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1975/10/00 First Use In Commerce: 1975/10/00 charitable fund raising services		

U.S. Registration No.	2976273	Application Date	08/05/2004
Registration Date	07/26/2005	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1977/00/00 First Use In Commerce: 1977/00/00 series of books featuring inspiration essays about building a fulfilling and productive life and a series of books on the history of the applicant and its work around the world</p> <p>Class 025. First use: First Use: 1995/00/00 First Use In Commerce: 1995/00/00 Shirts, sweaters, pants, shorts, coats and jackets, footwear, caps, hats, bandanas, children's cloth eating bibs, coveralls, foul weather gear, [gloves,] hat bands, head bands, headwear, [infantwear, jumpers, kerchiefs,] loungewear, neckerchiefs, neckties, neckwear, [overalls,] pajamas, pocket squares, rainwear, scarves, sleepwear, [socks, sweat bands, sweat suits,] ties, [tracksuits,] uniforms, vests, visors, warm-up suits and [wrist bands]</p>		


U.S. Registration No.	3340897	Application Date	07/09/2004
Registration Date	11/20/2007	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	The mark consists of three figures forming a house with the words HABITAT FOR HUMANITY adjacent to the design.		
Goods/Services	<p>Class 025. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Shirts, jackets, caps, hats, children's cloth eating bibs, headwear, infantwear, rainwear, visors</p> <p>Class 036. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Charitable fund raising services and mortgage lending services</p> <p>Class 037. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Renovation and construction of residential housing</p>		

U.S. Registration No.	3370179	Application Date	07/09/2004
Registration Date	01/15/2008	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	The mark consists of three figures forming a house with the words HABITAT FOR HUMANITY below the design.		
Goods/Services	<p>Class 025. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Shirts, jackets, caps, hats, children's cloth eating bibs, headwear, infantwear, rainwear, visors</p> <p>Class 036. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Charitable fund raising services and mortgage lending services</p> <p>Class 037. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Renovation and construction of residential housing</p>		

U.S. Registration No.	3694958	Application Date	09/30/2008
Registration Date	10/13/2009	Foreign Priority Date	NONE
Word Mark	HOLLYWOOD FOR HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	The mark consists of an outline of a hill featuring a set of houses on each side, and one house on top of the hill. The word "HOLLYWOOD" appears above the hill. The words "FOR HABITAT FOR HUMANITY" appear across the center of the hill.		
Goods/Services	Class 036. First use: First Use: 2000/12/02 First Use In Commerce: 2000/12/02 Charitable fund raising services Class 037. First use: First Use: 2000/12/02 First Use In Commerce: 2000/12/02 Renovation and construction of residential housing		

U.S. Registration No.	3997452	Application Date	12/20/2010
Registration Date	07/19/2011	Foreign Priority Date	NONE
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1992/12/31 First Use In Commerce: 1992/12/31 Retail store services, namely, selling used and donated household goods, appliances, and building and home improvement materials to support charitable activities		

U.S. Registration No.	4058878	Application Date	12/21/2010
Registration Date	11/22/2011	Foreign Priority	NONE

		Date	
Word Mark	HABITAT FOR HUMANITY		
Design Mark			
Description of Mark	The mark consists of three figures forming a house with the words "HABITAT FOR HUMANITY" to the right of the design.		
Goods/Services	Class 035. First use: First Use: 2005/05/02 First Use In Commerce: 2005/05/02 Retail store services featuring used and donated household goods, appliances, and building and home improvement materials to support charitable activities		

Attachments	78462748#TMSN.jpeg (1 page)(bytes) 78448417#TMSN.gif (1 page)(bytes) 78448424#TMSN.gif (1 page)(bytes) 77581999#TMSN.jpeg (1 page)(bytes) 85201775#TMSN.jpeg (1 page)(bytes) 85203117#TMSN.jpeg (1 page)(bytes) Notice of Opposition to SWIPEFORHUMANITY Mark.pdf (10 pages)(60984 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Samantha L. Hayes/
Name	Samantha L. Hayes
Date	05/02/2012

In the matter of Application Serial No. 85/451,415
Published in the *Official Gazette* on April 10, 2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HABITAT FOR HUMANITY)	
INTERNATIONAL, INC.,)	
)	
Opposer,)	Opposition No. _____
)	
vs.)	Alleged Mark: SWIPEFORHUMANITY
)	
DANNY K. CHOI, and)	
)	
MELINDA A. CHOI,)	
)	
Applicants.)	

NOTICE OF OPPOSITION

Opposer Habitat for Humanity International, Inc. (“Opposer”) believes that it will be damaged by registration of the trademark SWIPEFORHUMANITY, as shown in Application Serial No. 85/451,415 (the “SWIPEFORHUMANITY Mark”), filed by Applicants Danny K. Choi and Melinda A. Choi (“Applicants”), and states the following for its opposition to that Application:

1. Opposer is a Georgia non-profit organization with a principal place of business at 270 Peachtree Street NW, Suite 1300, Atlanta, Georgia, 30303. Opposer is an ecumenical Christian housing ministry whose mission is to address the problems of poverty and homelessness and make decent shelter a matter of public action.

2. Opposer is a worldwide, grassroots movement that has a presence in more than eighty countries, including over 1,500 affiliates in all fifty states of the United States, the District of Columbia, Guam, and Puerto Rico. For the past thirty-five years, Opposer, its predecessors-in-interest, and its affiliates (collectively, “Habitat for Humanity”) have invested a substantial

amount of time, effort, and money in promoting the internationally famous and well-known Habitat for Humanity organization.

3. Beginning in the 1970s, more than thirty-five years prior to the October 19, 2011 filing date of Applicants' application, Habitat for Humanity started to provide affordable housing to families in need. Since its start in the 1970s, Habitat for Humanity has helped to build more than 500,000 houses worldwide, sheltering 2.5 million people worldwide.

4. Opposer recruits volunteers to work with future homeowners to build or renovate homes. The homes are sold to families for zero profit and Opposer assists its homeowners with down payments and offers financing through affordable loans. The homeowners' monthly mortgage payments are used to build additional houses through Habitat for Humanity.

5. Opposer also widely promotes its mission through generous donations and fundraising efforts among its affiliates. Opposer raises money from a variety of sources including individual donations, planned giving, corporate sponsorships, and governmental and non-profit grants and partnerships. Opposer has hundreds of corporate partners, including numerous Fortune 500 companies such as Bank of America, Delta Air Lines, Cisco Systems, CitiBank, Dow Chemical Company, The Home Depot, and State Farm Mutual Insurance Company, among many others. Many of these companies donate employee time and other goods and services, in addition to monetary contributions.





6. Also contributing to the worldwide acclaim of Habitat for Humanity is the Jimmy and Rosalynn Carter Work Project. In 1984, President Jimmy Carter and his wife Rosalynn led a renovation project in New York City through Habitat for Humanity. Since that time, the Carters have sponsored an annual week-long project at different locations around the world.

7. Opposer offers numerous goods and services, including charitable fund raising services, to the public under its HABITAT FOR HUMANITY Marks, as defined below. Among other methods, consumers may make monetary donations to Opposer at the Habitat for Humanity website <www.habitat.org/support/> by entering their credit card information.

8. Since well before Applicants' actual or constructive first use of Applicants' SWIPEFORHUMANITY Mark, Habitat for Humanity has continuously used, and presently uses, the mark HABITAT FOR HUMANITY, either alone or with design elements (collectively, the "HABITAT FOR HUMANITY Marks"), in interstate commerce throughout the United States in connection with Habitat for Humanity's goods and services.

9. In addition to its strong common law rights, Opposer owns the following registrations for the HABITAT FOR HUMANITY Marks on the Principal Register of the United States Patent and Trademark Office, together with all right, title, and interest in the marks shown therein, and all of the business and goodwill represented thereby (collectively, the "HABITAT FOR HUMANITY Registrations"):

<u>Trademark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Goods</u>
HABITAT FOR HUMANITY	1,473,529	Jan. 19, 1988	(Int. Cl. 37) Renovation and construction of residential housing for the needy
HABITAT FOR HUMANITY	2,169,719	June 30, 1998	(Int. Cl. 36) Charitable fund raising services
HABITAT FOR HUMANITY	2,976,273	July 26, 2005	(Int. Cl. 16) Series of books featuring inspirational essays about building a fulfilling and productive life and a series of books on the history of the applicant and its work around the world (Int. Cl. 25) Shirts, sweaters, pants, shorts, coats, and jackets, footwear, caps, hats, bandanas, children's cloth eating bibs, coveralls, foul weather gear, [gloves,] hat bands, head binds, headwear, [infantwear, jumpers, kerchiefs,] loungewear, neckerchiefs, neckties, neckwear, [overalls,] pajamas, pocket squares, rainwear, scarves,

			sleepwear, [socks, sweat bands, sweat suits,] ties, [tracksuits,] uniforms, vests, visors, warm-up suits and [wrist bands]
	3,340,897	Nov. 20, 2007	(Int. Cl. 25) Shirts, jackets, caps, hats, children's cloth eating bibs, headwear, infantwear, rainwear, visors (Int. Cl. 36) Charitable fund raising services and mortgage lending services (Int. Cl. 37) Renovation and construction of residential housing
	3,370,179	Jan. 15, 2008	(Int. Cl. 25) Shirts, jackets, caps, hats, children's cloth eating bibs, headwear, infantwear, rainwear, visors (Int. Cl. 36) Charitable fund raising services and mortgage lending services (Int. Cl. 37) Renovation and construction of residential housing
	3,694,958	Oct. 13, 2009	(Int. Cl. 36) Charitable fund raising efforts (Int. Cl. 37) Renovation and construction of residential housing
HABITAT FOR HUMANITY	3,997,452	July 19, 2011	(Int. Cl. 35) Retail store services, namely selling used and donated household goods, appliances, and building and home improvement materials to support charitable activities
	4,058,878	Nov. 22, 2011	(Int. Cl. 35) Retail store services featuring used and donated household goods, appliances, and building and home improvement materials to support charitable activities

10. These HABITAT FOR HUMANITY Registrations are valid and subsisting, and affidavits have been filed in accordance with Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1068 and 1065, for Registration Nos. 1,473,529, 2,169,719, and 2,976,273, and these registrations are therefore incontestable.

11. The HABITAT FOR HUMANITY Marks are an inherently distinctive indicator of origin that, by virtue of continuous, long-standing and extensive use, advertising, and promotion by Opposer, have acquired a high degree of recognition and distinctiveness and have become symbolic of the extensive goodwill and quality of services and goods offered by Opposer. The relevant public and trade are familiar with and identify the HABITAT FOR

HUMANITY Marks with Opposer and, by reason of this identification, services and goods associated with HABITAT FOR HUMANITY Marks are understood by the relevant public and trade to be marketed and provided by Opposer or under Opposer's authority.

12. On October 19, 2011, Applicants filed an application to register the SWIPEFORHUMANITY Mark for "financial services, namely, electronic credit card transaction services, namely initiating and supporting charitable contribution donation programs that allow the use of credit cards for donations to the cause of others" in International Class 36.

13. Applicants had constructive knowledge and, on information and belief, also had actual knowledge of Opposer's HABITAT FOR HUMANITY Marks prior to filing the Application.

14. Applicants' SWIPEFORHUMANITY Mark is confusingly similar in sight, sound, connotation, and commercial impression to the previously used, well-known, and famous HABITAT FOR HUMANITY Marks, as it encompasses the entirety of two of the three terms comprising the HABITAT FOR HUMANITY Marks.

15. The financial services recited in the Application for the SWIPEFORHUMANITY Mark are highly related to services identified in the HABITAT FOR HUMANITY Registrations. By way of example, and not by limitation, Applicants have sought to register the SWIPEFORHUMANITY Mark in connection with financial services that facilitate monetary donations to charitable programs, while Opposer has already registered its HABITAT FOR HUMANITY Marks, as shown in the HABITAT FOR HUMANITY Registrations, for, *inter alia*, "charitable fund raising services" (Reg. Nos. 2,169,719, 3,340,897, 3,370,179 and 3,694,958).

16. Applicants' SWIPEFORHUMANITY Mark, when used in connection with Applicants' services as identified in the subject application, so resembles the previously used HABITAT FOR HUMANITY Marks as to be likely to cause confusion, to cause mistake, and/or to deceive members of the public concerning a sponsorship or endorsement of, or an affiliation, connection, or association with, the source of goods and services sold under the HABITAT FOR HUMANITY Marks, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with consequent injury to Opposer, the public, and the trade

17. Applicants' SWIPEFORHUMANITY Mark, when used in connection with Applicants' services as identified in the subject application, so resembles the registered marks shown in the previously registered HABITAT FOR HUMANITY Registrations as to be likely to cause confusion, to cause mistake, and/or to deceive members of the public concerning a sponsorship or endorsement of, or an affiliation, connection, or association with, the source of goods and services sold under the HABITAT FOR HUMANITY Marks shown in the HABITAT FOR HUMANITY Registrations, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with consequent injury to Opposer, the public, and the trade.

18. Pursuant to Section 13(a) of the Lanham Act, 15 U.S.C. § 1063(a), Opposer believes it will be damaged by registration of Applicants' SWIPEFORHUMANITY Mark in that members of the purchasing public and/or the trade are likely to be confused or mistaken that Applicants' financial services offered under the SWIPEFORHUMANITY Mark originate from Opposer, or from the same source as goods and services sold under the HABITAT FOR HUMANITY Marks and/or the registered marks shown in the HABITAT FOR HUMANITY Registrations, or that such services of Applicants are sponsored by, endorsed by, or affiliated with the source of goods and services sold under the HABITAT FOR HUMANITY Marks

and/or the registered marks shown in the HABITAT FOR HUMANITY Registrations. Such likelihood of confusion results in damage to the goodwill among purchasers and the trade that the HABITAT FOR HUMANITY Marks symbolize. Registration of Applicants' SWIPEFORHUMANITY Mark will support and assist Applicants in the confusing and misleading use of Applicants' mark, and, in addition, will give color and exclusive statutory right to Applicants in violation and derogation of prior and superior rights of Opposer.

WHEREFORE, Opposer requests that registration of Applicants' SWIPEFORHUMANITY Mark underlying Application Serial No. 85/451,415 be refused.

The required \$300 opposition fee is being electronically submitted with this Notice of Opposition. The Director is authorized to charge any deficiency or refund in the filing fee to Deposit Account No. 20-1430.

Please recognize William M. Bryner and the law firm of Kilpatrick Townsend & Stockton LLP as attorneys for Opposer in connection with this opposition proceeding. Please address all correspondence regarding this proceeding to William M. Bryner at Kilpatrick Townsend & Stockton LLP, 1001 West Fourth Street, Winston-Salem, NC 27101.

Respectfully submitted this the 2nd day of May, 2012.

/Samantha L. Hayes/
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*Attorneys for Opposer
Habitat for Humanity International, Inc.*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

HABITAT FOR HUMANITY)	
INTERNATIONAL, INC.,)	
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Opposer,)	Opposition No. _____
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vs.)	Alleged Mark: SWIPEFORHUMANITY
)	
DANNY K. CHOI, and)	
)	
MELINDA A. CHOI,)	
)	
Applicants.)	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** has been served on the attorney-of-record for Applicants Danny K. Choi and Melinda A. Choi by mailing said copy on May 2, 2012, via First Class Mail, postage prepaid, and addressed as follows:

Kit M. Stetina
Stetina Brunda Garred & Brucker
75 Enterprise Suite 250
Aliso Viejo, CA 92656

/ Samantha L. Hayes/
Samantha L. Hayes

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CERTIFICATE OF TRANSMITTAL

This is to certify that the attached **NOTICE OF OPPOSITION** is being filed electronically with the TTAB via ESTTA on May 2, 2012.

/Samantha L. Hayes/
Samantha L. Hayes
Attorney for Opposer